

DEDRICK MATTHEWS §
v. § CIVIL ACTION NO. 6:15cv954
CITY OF TYLER, TEXAS, ET AL. §

1

an authorized state tribunal, or called into question by the issuance of a federal writ of habeas corpus. Randell v. Johnson, 227 F.3d 300, 301 (5th Cir. 2000), *citing* Heck v. Humphrey, 512 U.S. 477, 486-87, 114 S.Ct. 2364, 129 L.Ed.2d 383 (1994). Matthews did not meet these pre-conditions and had previously sought federal habeas corpus relief concerning this conviction without success.

Matthews filed objections to the report stating that he had not consented to having a magistrate judge hear his case. However, the case was assigned to the magistrate judge only for pre-trial matters pursuant to 28 U.S.C. §636(b), for which no consent is required. Newsome v. EEOC, 301 F.3d 227, 230 (5th Cir. 2002). Matthews accompanied his objections with a motion asking that his lawsuit be dismissed.


The Court has reviewed the pleadings and the report of the magistrate judge and has determined that this report is correct. Nonetheless, Matthews' request for voluntary dismissal should be granted. *See* Carter v. United States, 547 F.2d 258, 259 (5th Cir. 1977) (plaintiff has absolute right to dismiss his complaint under Rule 41(a), Fed. R. Civ. P., prior to the filing of an answer or motion for summary judgment); Thomas v. Phillips, 83 F.App'x 661, 2003 WL 22965565 (5th Cir., December 17, 2003) (citing Carter). It is accordingly

ORDERED that the Plaintiff's motion for voluntary dismissal of his civil action (docket no. 10) is **GRANTED**. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** on the motion of the Plaintiff. It is further

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

SIGNED this 16th day of February, 2016.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE